

INTERNET ABUSE, STALKING, AND DOMESTIC VIOLENCE PREVENTION ACT OF 2011

Protected by anonymity and armed with access to a vast network of users, criminals are increasingly using the Internet as a primary tool in harassment and abuse. The Internet Stalking, Abuse, and Domestic Violence Prevention Act of 2011 (“Internet Abuse Act”) creates critical new federal tools to prevent these criminals from avoiding justice due of the unique nature of their crimes.

Background

Advocates have identified thousands of individual cases over the last ten years in which individuals have been stalked, physically and sexually assaulted, and subject to serious emotional distress as a result of this new use of the Internet for abusive purposes.¹ In one typical case, a Wyoming man named Mr. Stipe used Craigslist to pose as his ex-girlfriend and place an ad seeking “an aggressive man.” The ad was viewed a third party named Oliver McDowell. When McDowell responded to the ad, Stipe – posing as his ex-girlfriend – gave McDowell his ex-girlfriend’s home address. McDowell subsequently went to her home, forced his way in and raped her.

In another case, a fifty-year-old man in California used the Internet to solicit the rape of a twenty-eight-year-old woman who had rejected his advances. The man impersonated her in various Internet chat rooms and posted her telephone number and address, along with messages that she fantasized of being raped. At least six men knocked on the woman’s door saying that they wanted to rape her. Many more made abusing phone calls.

While local prosecutors found ways to pursue charges in both of these cases, these and other stories illustrate how the Internet can be used to facilitate crime in many new and unanticipated ways. Viewed as a whole, current law is ill-equipped to respond to these new challenges. For example, while some states have passed broad anti-impersonation and cyberstalking statutes, nearly half do not have such laws. Moreover, a variety of unique challenges associated with Internet facilitation of criminal acts, like the ease of impersonation and information transmission online, limit the ability of existing federal law to reach these crimes in all forms.

Summary of the Internet Abuse Act

The Internet Abuse, Stalking, and Domestic Violence Prevention Act creates new authority and modifies existing authority to ensure that federal law can fully reach this heinous conduct whenever it occurs:

- Updates to Federal Online Harassment Law. Current law criminalizes anonymous, harassing communications directed at a specific victim. However, it does not cover harassing communications *that may not be directly received by a victim*. DOJ has described this problem as “a cyberstalking situation where a person harasses or terrorizes another person by posting messages on a bulletin board or in a chat room encouraging others to harass or annoy another person.”² The Internet Abuse Act expands the law to cover these situations, while also addressing free speech concerns by eliminating the ability of prosecutors to criminally prosecute communications that merely “annoy” the recipient.
- Criminalizing the Internet Facilitation of Crimes of Violence. The Internet Abuse Act creates a new, narrow provision criminalizing the transmission of someone’s personally identifiable information in order to facilitate the violation of an existing federal domestic violence, stalking, or sexual offense. In 1998, a similar provision, criminalizing the knowing transmission of personally identifiable information about a minor with the intent to facilitate a criminal sexual offense, passed the House by a vote of 416-1 and the Senate unanimously as part of the Child Protection and Sexual Predator Punishment Act.³

¹ See, e.g., WORKING TO HALT ONLINE ABUSE, ONLINE HARASSMENT/CYBERSTALKING STATISTICS (last accessed 11/30/11), available at <http://www.haltabuse.org/resources/stats/index.shtml>.

² CYBERSTALKING: A NEW CHALLENGE FOR LAW ENFORCEMENT AND INDUSTRY, A REPORT FROM THE ATTORNEY GENERAL TO THE VICE PRESIDENT (1999), available at <http://www.justice.gov/criminal/cybercrime/cyberstalking.htm>.

³ See 18 U.S.C. § 2425.